

AMENDED IN ASSEMBLY MARCH 20, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1769

Introduced by Assembly Member Leslie
(Coauthors: Assembly Members Aanestad, Harman, La Suer,
Longville, Robert Pacheco, ~~and Peseetti~~ Pescetti, and Salinas)
(Coauthors: Senators Johannessen and Morrow)

January 9, 2002

An act to add Section 17538.41 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 1769, as amended, Leslie. Advertising: unsolicited cellular telephone and pager text messages.

Existing law provides for the regulation of advertising and specifically prohibits a person conducting business in this state from faxing or electronically mailing unsolicited advertising material, unless certain conditions are satisfied. Existing law provides that a violation of the provisions regulating advertising is a misdemeanor, and also provides for imposition of civil penalties and injunctive relief.

This bill would, subject to certain exceptions, generally prohibit a person or entity conducting business in this state from transmitting or causing to be transmitted a text message consisting of unsolicited advertising material to a cellular telephone or pager equipped with short message capability or any similar capability allowing the transmission of text messages. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17538.41 is added to the Business and
2 Professions Code, to read:

3 17538.41. (a) (1) Except as provided in subdivision (b), no
4 person or entity conducting business in this state shall transmit or
5 cause to be transmitted a text message consisting of unsolicited
6 advertising material for the lease, sale, rental, gift offer, or other
7 disposition of any realty, goods, services, or extension of credit to
8 a cellular telephone or pager equipped with short message
9 capability or any similar capability allowing the transmission of
10 text messages.

11 (2) This section shall apply when an unsolicited text message
12 is transmitted to a telephone number assigned for cellular
13 telephone or pager service to a California resident.

14 (b) This section does not apply to text messages transmitted by
15 or at the direction of a person or entity offering cellular telephone
16 or pager service if the subscriber is offered an option to ~~receive or~~
17 ~~not receive certain those~~ text messages ~~and affirmatively elects to~~
18 ~~receive them.~~

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

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